

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

J.R., by and through his parents and  
guardians, Ju.R. and Ja.R., individually, on  
behalf of similarly situated individuals,

Plaintiff,

v.

BLUE CROSS AND BLUE SHIELD OF  
ILLINOIS; CATHOLIC HEALTH  
INITIATIVES MEDICAL PLAN; and  
CATHOLIC HEALTH INITIATIVES,

Defendants.

NO. 2:18-cv-01191-JLR

~~PROPOSED~~ ORDER

- (1) PRELIMINARILY APPROVING  
SETTLEMENT AGREEMENT;
- (2) APPROVING CLASS NOTICE  
PACKAGE; AND
- (3) ESTABLISHING A FINAL  
SETTLEMENT APPROVAL  
HEARING AND PROCESS

**Noted for Consideration:  
November 4, 2019**

Upon consideration of Plaintiff's unopposed motion pursuant to Federal Rule of Civil Procedure 23(e) for an order preliminarily approving the settlement of this Action ("Motion for Preliminary Approval") and in accordance with the Parties' Settlement Agreement dated as of November 4, 2019 (the "Agreement"), which together with the Appendices annexed thereto sets forth the terms and conditions for a proposed

1 settlement of the Action, and the Court having read and considered the Agreement,  
2 orders as follows:<sup>1</sup>

3 1. Based on the record before it, the Court tentatively finds, pursuant to  
4 Federal Rule of Civil Procedure 23(e), that the Agreement attached as *Appendix 1* to the  
5 Motion for Preliminary Approval, is fair, reasonable, and adequate. The Court finds  
6 that: (a) the Agreement resulted from extensive arm's length negotiations; (b) there is  
7 no evidence at this stage of the proceedings of fraud, collusion, or overreaching or that  
8 the rights of absent Class Members were disregarded; and (c) counsel has sufficient  
9 experience in similar litigation to propose the Agreement. The Court's preliminary  
10 approval is subject to change pending the outcome of the final settlement approval  
11 hearing ("Fairness Hearing") established herein.

12 2. The Court finds that the proposed Class Notice, attached as *Appendix 2a*,  
13 meets the requirements of Federal Rule of Civil Procedure 23, due process, and the  
14 applicable law in that it fairly and adequately describes the terms of the Agreement,  
15 including the attorneys' fees and costs sought by Sirianni Youtz Spoonemore  
16 Hamburger PLLC ("Class Counsel") and Named Plaintiff's ability to seek an Incentive  
17 Award; gives notice of the time and place of the Fairness Hearing; and describes how a  
18 Class Member may comment on, object to, or support the Agreement. The Court finds  
19 that the Claim Form and Claim Form Instructions, attached at *Appendix 2b-c*, provide  
20 Class Members with a reasonable method to file claims.

21 3. The Court appoints EPIQ Class Action and Claims Solutions to act as  
22 Claims Processor with the powers and responsibilities set forth in Sections 2.2.3 and 8 of  
23 the Agreement.

24  
25  
26 <sup>1</sup> The initial capitalization of terms used in this Order and not defined herein shall have the meanings assigned to them in the Agreement.

1           4.     The Court authorizes and directs Defendants CommonSpirit Health (f/k/a  
2 Catholic Health Initiatives), Catholic Health Initiatives Medical Plan or a designated  
3 agent to transmit the names and addresses of the Class Notice Recipients located after a  
4 reasonable search to the Claims Processor within 60 days of the entry of this Order. This  
5 Order is intended to satisfy 45 C.F.R. §164.512(e)(1)(i).

6           5.     The Court directs the Claims Processor to mail the Class Notice and Claim  
7 Form Materials (*Appendices 2a-c*) to the Class Notice Recipients. The Claims Processor  
8 shall complete its mailing within 14 days after receipt of the names and addresses of the  
9 Class Notice Recipients. The Claims Processor will submit a declaration to the Court  
10 confirming its compliance with the class notice procedures contained in this Order  
11 within 75 days of the date of this Order.

12           6.     Class Counsel shall establish a settlement web page available to the public  
13 within 30 days of the date of this Order. The web page shall contain the Settlement  
14 Agreement, Class Notice, claims forms, claim form instructions, a description of the  
15 action, deadlines and key pleadings (including, without limitation, the motions for  
16 approval and orders certifying the settlement class and preliminarily approving the  
17 agreement).

18           7.     The Court concludes that direct mail notice to the Class Notice Recipients,  
19 in addition to web-based notice, is the best notice practicable under the circumstances  
20 and complies with the requirements of Federal Rule of Civil Procedure 23, due process,  
21 and any other applicable law.

22           8.     Not more than ten (10) days after the date of this Order, CommonSpirit  
23 Health (f/k/a Catholic Health Initiatives) and Catholic Health Initiatives Medical Plan  
24 shall provide notices and materials required under the Class Action Fairness Act  
25 ("CAFA"), 28 U.S.C. §1715(b).  
26

1           9.     A Fairness Hearing to consider whether the proposed Agreement is fair,  
2 reasonable, and adequate and should be finally approved is scheduled for April 15, 2020  
3 at 9:00 a.m. at the United States Courthouse, 700 Stewart Street, Suite 14106, Seattle, WA  
4 98101.

5           10.    A Class Member who wishes to comment on or object to the Agreement  
6 must submit written comments and/or objections to the Court no later than April 1,  
7 2020.

8           11.    A Class Member who wishes to appear at the Fairness Hearing may do so  
9 if he or she submits written notice to the Court, with copies to counsel, that he or she  
10 intends to appear in person or through counsel. In that written notice to appear, the  
11 Class Member must describe the nature of his or her comment or objection. Written  
12 notice of intent to appear must be filed with the Court and mailed to counsel by April 1,  
13 2020.

14           12.    A Motion for Final Approval of the Agreement, together with any  
15 supporting declarations or other documentation, must be filed no later than April 6,  
16 2020. Class Counsel shall also mail the Motion for Final Approval to all Class Members  
17 who object to the Agreement or file written notice with the Court that they intend to  
18 appear at the Fairness Hearing.

19           13.    Claims by Class Members must be received by the Claims Processor no  
20 later than April 1, 2020.

21           14.    Class Counsel shall file any motion for an award of attorneys' fees or  
22 reimbursement of expenses or costs and any motion for an Incentive Award on behalf of  
23 Named Plaintiff no later than March 3, 2020. Class Counsel shall post this motion on the  
24 web page within three days of its filing with the Court.

25           15.    The Claims Processor shall establish a trust account into which Defendants  
26 shall cause the Settlement Amount to be paid within 30 days after the Agreement is Final.

1 The trust account shall constitute a "qualified settlement fund" within the meaning of  
 2 Internal Revenue Code §468B and Treas. Reg. §1.468B-1, *et seq.* The Qualified Settlement  
 3 Fund shall remain subject to the jurisdiction of the Court, until such time as the  
 4 Settlement Amount is distributed pursuant to the Agreement and/or further order(s) of  
 5 the Court.

6 16. Neither Defendants nor Defendants' counsel shall have any responsibility  
 7 for the distribution of the Qualified Settlement Fund, or any application for attorneys'  
 8 fees or reimbursement of expenses or for an Incentive Award for Named Plaintiff  
 9 submitted by Class Counsel, and such matters will be considered separately from the  
 10 fairness, reasonableness, and adequacy of the Agreement.

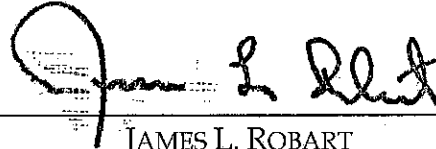
11 17. All reasonable expenses incurred by the Claims Processor in sending the  
 12 Class Notice, as well as administering the Qualified Settlement Fund, shall be paid as set  
 13 forth in Sections 8.2 and 8.3 of the Agreement. CHI may seek reimbursement in an  
 14 amount of up to \$5,000 from the Qualified Settlement Fund for any charges it incurs from  
 15 its former third-party administrators in connection with identifying Class Notice  
 16 Recipients and/or members of the Settlement Class and claims administration, as set  
 17 forth in Section 8.2.1 of the Agreement.

18 18. Pending final determination of whether the Agreement should be  
 19 approved, (a) all proceedings in this Action unrelated to the Agreement shall be stayed,  
 20 and (b) neither Named Plaintiff nor any Class Member, either directly, representatively,  
 21 derivatively, or in any other capacity, shall commence or prosecute against any of the  
 22 Releasees any action or proceeding in any court or tribunal asserting any of the Class  
 23 Released Claims.

24 19. The Court reserves the right to adjourn the date of the Fairness Hearing  
 25 without further notice to Class Members, and it retains jurisdiction to consider all further  
 26 applications arising out of or connected with the Agreement. The Court may approve

1 the Agreement, with such modifications as may be agreed to by the Parties, if  
2 appropriate, without further notice to Class Members.

3 It is so ORDERED this 25<sup>th</sup> day of November, 2019.  
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6

JAMES L. ROBART  
7 United States District Judge

8 Presented by:

9 SIRIANNI YOUTZ  
10 SPOONEMORE HAMBURGER PLLC

11 /s/ Eleanor Hamburger

12 Richard E. Spoonemore (WSBA #21833)

13 Eleanor Hamburger (WSBA #26478)

3101 Western Avenue, Suite 350

Seattle, WA 98121

14 Tel. (206) 223-0303

15 Email: ehamburger@sylaw.com

Email: rspoonemore@sylaw.com

16 Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on November 4, 2019, I caused the foregoing to be served by email to the following:

- **Lisa M.C. Elizondo**  
lelizondo@kilpatricktownsend.com, irountree@kilpatricktownsend.com,  
lisa.mc.elizondo@gmail.com
- **Lars S. Golumbic**  
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- **Daniel S. Gross**  
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- **Kara Wheatley**  
kwheatley@groom.com

DATED: November 4, 2019, at Seattle, Washington.

/s/ Eleanor Hamburger  
Eleanor Hamburger (WSBA #26478)  
Email: ehamburger@sylaw.com